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UNCLAS E F T O SECTION 01 OF 02 OTTAWA 003265

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JUSTICE FOR BURKE, DHS FOR BOYD, USCG FOR KIESERMAN

E.O. 12958: DECL: 12/01/2009

TAGS: [KCRM](#) [PGOV](#) [PREL](#) [PTER](#) [SMIG](#) [SNAR](#) [CA](#)

SUBJECT: CANADA: MARITIME COOPERATION

1. summary: Canada's Minister of Justice, Irwin Cotler, informed Ambassador Cellucci on November 22 that the Government of Canada would be open to exploratory discussions with representatives of the US Government concerning an evaluation of need and then possible development of a maritime agreement, or shiprider protocol between the US and Canada. Cotler thought that the best existing mechanism for these talks would be within the Border Enforcement Subgroup of the Cross Border Crime Forum thus allowing eventual shiprider exercises, if agreed upon, to become operational extensions of already on-going and successful Integrated Border Enforcement Team (IBET) activities.  
end summary

2. During a one-on-one meeting in his Parliament Hill office on November 22, Canada's Minister of Justice, Irwin Cotler told Ambassador Cellucci that he and his Ministry are pleased to have become a more active participant in the US-Canada Cross Border Crime Forum. Cotler commented that the Crime Forum has over the years proven itself a energetic and positive mechanism for the promotion of bi-lateral law enforcement cooperation and coordination by identifying problems and then developing the solutions to them. Cotler suggested that in his experience, most Canadians have long recognized that just as the US homeland cannot be fully secure without the help of Canada, neither can Canada be truly safe without close cooperation with the United States. He noted that this was especially evident in the post-9/11 era and that Canadian law enforcement officials are sensitive to the need to do more with their US counterparts.

3. As a result, Cotler said that Canada would be open to exploratory discussions with representatives of the US Government to ascertain if there is a need for an expanded law enforcement presence in the Great Lakes, Saint Lawrence Seaway and possibly along our Atlantic and Pacific coasts. He noted that on the Canadian side such discussions should include representatives from Transport Canada, Public Safety and Emergency Preparedness (PSEPC), Foreign Affairs Canada (FAC), the Ministry of Justice, the Royal Canadian Mounted Police (RCMP), The Prime Minister's Office (PMO), and other interested stakeholders including the pertinent provincial authorities. The key, Cotler stressed, would be to ensure that an agreed to enhanced maritime law enforcement commitment would be consistent with Canada's quote constitutional framework and law unquote.

4. As a practical step forward, Cotler said he thought that the most appropriate existing mechanism for these talks could be within the Border Enforcement Subgroup of the Cross Border Crime Forum. This he suggested might allow eventual shiprider exercises, if agreed upon, to become operational extensions of already on-going and successful Integrated Border Enforcement Team (IBET) activities. Cotler said he would confer with his counterpart and Canadian co-chair of the Cross Border Crime Forum, Public Safety and Emergency Preparedness Canada, Deputy Prime Minister Ann McLellan as well as US Department of Justice Forum organizers about tasking the Border Enforcement Subgroup with quote defining the problem and then offering solutions unquote.

5. Minister Cotler's remarks to the Ambassador mirrored a Canadian Government position expressed earlier to poloff. On November 19, PSEPC Director General Caroline Melis said that DPM McLellan made clear that enhanced US-Canadian border security remains a national priority and that PSEPC stands ready to begin discussions with US officials with an eye towards an eventual maritime, or shiprider protocol. Melis noted that the DPM's Senior Policy Advisor for Border Services, David Thelan, had underscored the value of a maritime agreement, to be spearheaded by a two week shiprider proof of concept exercise on the Great Lakes, but that the Ministry of Justice's Senior Legal Advisor as well as the RCMP's senior counsel advised that a shiprider exercise as described in the proof of concept was inconsistent with Canadian law and therefore should not be implemented within Canadian waters. (Note: the proof of concept discussed here was prepared by DHS and given to the RCMP in June. Though the RCMP's Director General for Border Integrity fully endorsed the proposal, it appears to have languished in the RCMP's legal office until October. Only then did the RCMP's

senior legal advisor pass the proposal to the Ministry of Justice for the Government of Canada's official review and decision. Post was advised in mid-October that Canada Justice found the proposal quote inconsistent with Canadian law unquote. This appears to be the same fate suffered by a similar shiprider proposal given to the Canadian Government in the late 1990s.)

16. Comment: Many of our Canadian interlocutors agree that a shiprider program would greatly enhance both US and Canadian law enforcement capabilities in and around our shared lakes, waterways and coasts and therefore should be done. The seemingly contradictory hesitancy to conduct a early and quick proof of concept however, stems from a Canadian insistence that Canadian civil liberties and protections not be infringed upon by foreign officers of the law -- especially if armed. As Miles was quick to point out the last thing we (Canadians) want is quote for another 31 year-old mother of three to be killed by a US cop engaged in a high speed chase on Canadian streets -- with or without permission unquote. This leads to the conclusion that the devil remains in the details and as we've been told an eventual joint maritime exercise and hoped for protocol will require interagency consensus among all stakeholders within the Canadian Government. Therefore, Cotler's suggestion to task the Border Enforcement Subgroup of the Cross Border Crime Forum may be the best place to start.

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